



**UNITED STATES DEPARTMENT OF COMMERCE  
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AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/178,396    10/23/98    MORIN    B    2029

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IM22/0111

EXAMINER

PRATT, C

ART UNIT

PAPER NUMBER

1771

8

DATE MAILED: 01/11/01

**Pl ase find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/178,396

Applicant(s)

MORIN ET AL.

Examiner

Christopher C. Pratt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2000.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendments and accompanying remarks filed 10/30/00 have been entered and carefully considered. Applicant's amendment is found to overcome the claim objection as well as the 112 indefinite rejections set forth in the last action.

Despite this advance, the amendments are not found to patently distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### ***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-5, 7-11, 13-16, 18-20, and 24-30 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yahiaoui et al (5814567), as set forth in the last action.

Applicant's arguments filed 10/30/00 have been fully considered but they are not persuasive. Applicant seems to concede that Yahiaoui is coating a fabric with the same materials in similar proportions as those instantly claimed. Applicant argues that because Yahiaoui uses a spunbonded fabric that Yahiaoui does not reach the desired property instantly claimed. Applicant has submitted a declaration showing experimental evidence that spunbond fabrics are not capable of obtaining applicant's claimed properties. While Yahiaoui does teach the use of spunbond fabrics, woven, knitted, wet-laid, dry-laid, and meltblown nonwoven fabrics are also taught to be equally suitable

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as the substrate of Yahiaoui's invention (col. 2, line 3 and col. 6-7, lines 30-5). It is the examiner's position that if applicant's experimental testing were performed with these other fabrics that are taught by Yahiaoui then the properties claimed by applicant would be achieved. This position is supported by the fact that applicant claims the same fabrics taught by Yahiaoui. Said rejection is maintained from the last action.

Yahiaoui also discloses applicant's claimed weight (example 3).

***Claim Rejections - 35 USC § 103***

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yahiaoui et al (5814567).

Applicant has amended claim 17 to include the denier of the yarns used to compose the fabric. Yahiaoui does not seem to explicitly disclose a specific denier. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a yarn having a denier of 15 to 250, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105, USPQ 233. The skilled artisan would have been motivated to select such a denier by the reasoned expectation of varying the flexibility and hand of the fabric.

5. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yahiaoui et al (5814567), as set forth in the last action.

Applicant's arguments filed 10/30/00 have been fully considered but they are not persuasive. Applicant argues that Yahiaoui does not teach the use of a nonionic

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surfactant. The examiner points to col. 1, lines 30-42, in which Yahiaoui teaches that it is well known in the art to utilize nonionic surfactants. It is therefore, the examiner's position that it would have been obvious to a person having ordinary skill in the art to utilize a nonionic surfactant. Such a modification would have been motivated by the reasoned expectation of rendering a normally hydrophobic polymeric fabric water wettable, as Yahiaoui teaches. Said rejection is maintained from the last action.

6. Claims 6, 12, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yahiaoui et al (5814567) in view of Applicant's Admitted Prior Art (AAPA), as set forth in the last action.

Applicant argues that Yahiaoui teaches the use of an absorbent article as a diaper, feminine care article, etc. The examiner agrees but also points to col. 2 line 33, in which Yahiaoui clearly teaches said absorbent article to be used as a wipe. The skilled artisan would have been motivated to presaturate a wipe in a package by the reasoned expectation of rendering the wipe more commercially attractive to consumers. Said rejection is maintained from the last action.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2351.

Christopher C. Pratt  
January 4, 2001



TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700